

HERMAN J. MARINO, LTD., P.C.
Herman J. Marino (IL Bar No. 1765817;
NV Bar No. 12812; FLA Bar No. 1017493)
205 North Michigan Avenue, Suite 810
Chicago, Illinois 60601
Tel. (312) 347-9990
Fax (312) 347-9992
hjmarino@marinolaw.net

Attorneys for Defendant Prime Logistics Corp

**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS EASTERN
DIVISION**

NEW PRIME, INC., D/B/A PRIME, INC.,)
Plaintiff,)

v.)

Case No. 1:23-cv-00095

PRIME LOGISTICS CORP.,)
Hotaling)

Hon. Judge Jeremy C. Daniel
Mag Judge Keri L Holleb

Defendant.

CORRECTED AFFIDAVIT

I, PHILIP ARNAUDOV, first sworn under oath, being of sound mind and memory, being over the age of 18 and a resident of the state of Illinois, declares as follows:

1. I am the sole officer of the Defendant Prime Logistics Corp. ("Prime/PLC")

2. I have personal knowledge of the facts set forth herein and can testify competently to the same if called upon.

3. As the sole operating officer of Prime, I have possession of all the existing business records of Prime which I maintain in electronic form on my computer, including but not limited to our income tax returns and our business accounting records maintained upon the “Transportation Software System” and documents supporting the accounting entries and Prime’s corporate income tax returns.

4. I have read the Court’s Order of January 29, 2024 and compared it with my prior responses to the following: Plaintiff’s interrogatories No 5, 6, 7 and 12 and Document requests no 17, 18, 19, 21 and 42.

5. In response to the points raised by this Court, the Affidavit intends to provide answers and clarifications that should address several of the Court’s inquiries. Your Affiant makes this response notwithstanding the fact that the records of the United States Motor Carrier Administration reveals no fewer than 40 businesses using a variation of the name “Prime Logistics” (See **Exhibit 1** attached).

6. On February 9, 2023, Defendant produced 1,759 pages of bates-stamped documents: 16 leases (PLC 1000 thru 1008; PLC 1039 thru 1046 PLC

1078 thru PLC 1085 and PLC 2759), its brokers by geographic area (PLC 1009-PLC 1038) its emails and texts responsive to the pending requests (PLC 1048 thru PLC 1077); and the list of invoices and revenue from 1/1/2011 through 12/31/22 (PLC 1085 thru PLC 2758). (See Index, **Exhibit 2**).

7. Upon due inquiry and investigation, Defendant has no list of invoices and revenue from January 1, 2007 through December 31, 2022.

8. It is important to me that my responses accurately reflect my original statements. Given my extensive experience in the trucking industry, I believe I possess a depth of knowledge that surpasses many others in the field:

A. Interrogatory 5/6/7. As stated in our original and supplemental answers to Interrogatory No. 5, our operations are closely aligned with the dynamics of the spot market, where prices fluctuate on an hourly basis. Similar to the Wall Street Stock Market, our pricing strategy is dictated by the principles of supply and demand.

When brokers present us with load offers, we respond with varying price points that reflect the current demand for trucks. This means that the price we ask for could change within a matter of minutes, mirroring the rapid shifts in market demand.

Our goal is to maximize our returns by selling high, which allows us to generate more revenue. This approach, while seemingly unpredictable, is a common practice in markets characterized by constant change and is integral to our business model.

It is important to note that our primary customer base consists of freight brokers. As of 2023, there are approximately 82,188 freight brokers in the United States alone. (See PLC 1009-PLC 1038). This vast number of potential clients further emphasizes the importance of our dynamic pricing strategy.

I hope this provides a clearer understanding of our pricing strategy and our customer base.

B. Interrogatory No. 6 concerning the classes, types, characteristics, and locations of our customers:

Attached is a comprehensive list detailing the cities and states of the freight brokers we have collaborated with from 2011 to the present. (See PLC 1009 thru PLC 1038). It is important to note that the classes and types of these freight brokers has remained consistent over the years. They primarily provide dry van and reefer freight services across the United States. This information should provide a clear picture of our customer base and their operations.

A “**refrigerated load**”, often referred to as a “reefer load,” typically contains goods that need to be kept at a specific temperature during transport. This can include perishable items such as fruits, vegetables, dairy products, and meats. It can also include certain types of medical supplies or pharmaceuticals that require refrigeration.

On the other hand, a “**dry van load**” refers to the transport of goods that do not require a temperature-controlled environment. These can be non-perishable food items, clothing, electronics, furniture, and other general merchandise.

Please note that the specific contents of a load can vary based on the needs of the shipper and the capabilities of the trucking company.

We have produced to Plaintiff lists that address the requests outlined in Interrogatories No. 5 and No. 7. The documents provided contain detailed records of both refrigerated (reefer) and dry van load transactions for the years 2011 through 2023.

Defendants records do not go back prior to 2011 and therefore

Defendant cannot provide these lists or information for 2007, 2008, 2009 and 2010 as ordered by the Court.

These records have been meticulously compiled and manually entered into tables, which are clearly presented in the accompanying files. This provide

the same breakdown or loads and revenue as was provided in our supplemental answer to interrogatory No. 5 on September 21, 2023.

C. Interrogatory No. 5 and 6:

Defendant has produced its schedules of load invoices and revenue from January 1, 2011 through December 31, 2022. (PLC 1085 thru PLC 2758). The indicated "load schedules" provide the information requested in Interrogatories No. 5 and No. 7.

The documents provided contain detailed records of both refrigerated (reefer) and dry van load transactions, showing the invoice date, the date and time of pick-up and delivery and the invoice amount for each load/transaction. These records have been meticulously compiled and manually entered into tables, which are clearly presented in the indicated files.

D. Interrogatory 12 and RFP's 17-19:

Defendant acknowledges the Plaintiff's efforts to obtain information and documentation regarding "instances of confusion" between our company and theirs.

Our Facebook page serves primarily as a platform for advertising and communication. It is frequented by truckers who express interest in our posts, engage in discussions, and interact with each other. We do not have control over who posts on our page or the content of their posts.

I am the only person at the Defendant who can access or make changes to our Facebook page. I have conducted a thorough review of our Facebook posts and comments over the period from 2022 to date.

As of now, based upon my review, there are no posts or comments that indicate confusion between NEW PRIME INC and PRIME LOGISTICS CORP. While I am the only person at Defendant who can access or make changes to Defendant's Facebook page, it is important to note that individuals have the ability to post, modify, and delete their posts and comments left on our Facebook page. This dynamic nature of social media

platforms can lead to automatic changes, deletions, and amendments to comments related to a post. It operates much like a tree branch structure, where removing a branch also removes all its connected sub-branches.

We hope this provides a clearer understanding of our position and the nature of our Facebook interactions. We remain committed to providing accurate and timely information on a going forward basis on this issue.

Attached are our documents with Facebook memorializing our efforts to correct the hacking that occurred on our Facebook page during 2022 (PLC 1048 thru 1077). Most of these were previously produced to plaintiff.

Based upon my investigation to date, I have found no other communications on our Facebook page, in my text messages or emails which memorialize or refer to a confusion as described in Plaintiff's Interrogatory No. 12.

E. RFP's 21 and 42:

On February 9, 2024 we produced 16 lease agreements entered into by Defendant from 2008 to date. (PLC 1000 thru 1008; PLC 1039 thru 1046 PLC 1078 thru PLC 1085 and PLC 2759).

FURTHER AFFIANT SAYETH NOT.

Executed on February 9, 2024 in Cook County, Illinois.

I declare and certify under penalty of perjury that the foregoing is true and correct.



Philip Arnaudov

Subscribed and sworn to
this 9 day of February 2024


Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that it served a copy of the included Affidavit to all counsel of record for Plaintiff set forth below on February 9, 2024 as follows: esidler@lathropgager.com; richard.beem@lathropgpm.com; timothy.hadacheck@lathropgpm.com travis.mccallon@lathropgpm.com luke.meriwether@lathropgpm.com

By: /s/ Herman J. Marino
Herman J. Marino

Herman J. Marino
HERMAN J. MARINO, LTD., P.C.
205 North Michigan Avenue Suite 810
Chicago, Illinois 60601
(312) 347-9990
hjmarino@marinolaw.net
Attorneys for Defendant/Counter-Plaintiff

EXHIBIT 1



U.S. Department of Transportation

Federal Motor Carrier Safety Administration

Safety and Fitness Electronic Records (SAFER) System

Possible Keyword Matches

CARRIER/DBA NAME	LOCATION
<u>365 PRIME LOGISTICS LLC</u>	RALEIGH, NC
<u>A&H PRIME LOGISTICS LLC</u>	WOODRIDGE, IL
<u>A1A PRIME LOGISTICS LLC</u>	CHESTERFIELD, VA
<u>ABACO PRIME LOGISTICS LLC</u>	WEST PALM BEACH, FL
<u>ACCESS PRIME LOGISTICS LLC</u>	RALEIGH, NC
<u>ALPHA PRIME LOGISTICS LLC</u>	HIGHLAND HGTS, OH
<u>AM PRIME LOGISTICS LLC</u>	MENIFEE, CA
<u>AMERICAN PRIME LOGISTICS LLC</u>	HOUSTON, TX
<u>AVALON PRIME LOGISTICS INC</u>	COLUMBUS, OH
<u>BEK PRIME LOGISTICS INC</u>	GRAND RAPIDS, MI
<u>BPRIME LOGISTICS INC</u>	COUNTRYSIDE, IL
<u>C PRIME LOGISTICS</u>	BARSTOW, CA
<u>D&T PRIME LOGISTICS LLC</u>	SAINT LOUIS, MO
<u>E&Q PRIME LOGISTICS LLC</u>	RIVERVIEW, FL
<u>FALCON PRIME LOGISTICS</u>	MILTON, ON
<u>FALCON PRIME LOGISTICS INC</u>	MILTON, ON
<u>GLOBAL PRIME LOGISTICS LLC</u>	PORTLAND, ME
<u>GNV PRIME LOGISTICS</u>	GAINESVILLE, FL
<u>HARPER'S PRIME LOGISTICS LLC</u>	LIVINGSTON, CA
<u>HIGHTOWER PRIME LOGISTICS LLC</u>	FAYETTEVILLE, GA
<u>I&K PRIME LOGISTICS INC</u>	ORLANDO, FL
<u>IMPERIAL PRIME LOGISTICS LLC</u>	KISSIMMEE, FL
<u>INTERSTATE PRIME LOGISTICS LLC</u>	ST PAUL, MN
<u>IPRIME LOGISTICS INC</u>	FALLS CHURCH, VA
<u>JDMPRIME LOGISTICS INC</u>	PHILADELPHIA, PA
<u>JNS PRIME LOGISTICS LLC</u>	HERMITAGE, TN
<u>JUPYTER PRIME LOGISTICS LLC</u>	TAMPA, FL
<u>JZ PRIME LOGISTICS LLC</u>	SUGAR LAND, TX
<u>LGS PRIME LOGISTICS LLC</u>	HOT SPRINGS, AR
<u>LOAD PRIME LOGISTICS LLC</u>	MAYFIELD HTS, OH
<u>LOGIC PRIME LOGISTICS LLC</u>	FLORISSANT, MO
<u>M & E PRIME LOGISTICS LLC</u>	RIEGELWOOD, NC
<u>MCKINNEY PRIME LOGISTICS LLC</u>	TULSA, OK
<u>MD PRIME LOGISTICS LLC</u>	REISTERSTOWN, MD
<u>MLC PRIME LOGISTICS LLC</u>	NORTHBRIDGE, CA
<u>MOLDPRIME LOGISTICS INC</u>	JOLIET, IL
<u>MORGAN PRIME LOGISTICS LLC</u>	PATERSON, NJ
<u>MTZ'S PRIME LOGISTICS</u>	DALLAS, TX
<u>NATIONAL PRIME LOGISTICS LLC</u>	WINCHESTER, MA
<u>NORTHEAST PRIME LOGISTICS LLC</u>	WORCESTER, MA
<u>OB PRIME LOGISTICS</u>	CHARLOTTE, NC
<u>OC PRIME LOGISTICS INC</u>	RIVERSIDE, CA
<u>OCEAN PRIME LOGISTICS LLC</u>	ARLINGTON, TX
<u>PRIME LOGISTICS</u>	HEREFORD, TX
<u>PRIME LOGISTICS</u>	KENTWOOD, MI
<u>PRIME LOGISTICS</u>	WATFORD CITY, ND
<u>PRIME LOGISTICS 376 INC</u>	TRACY, CA
<u>PRIME LOGISTICS ASSURED</u>	SACRAMENTO, CA
	RALEIGH, NC

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SAFER WEB - Select Company

PRIME LOGISTICS CALIFORNIA INC
PRIME LOGISTICS CORP
PRIME LOGISTICS CORP
PRIME LOGISTICS ENTERPRISES LLC
PRIME LOGISTICS EXPRESS CORPORATION
PRIME LOGISTICS GROUP INC
PRIME LOGISTICS GROUP LLC
PRIME LOGISTICS GROUP LLC
PRIME LOGISTICS INC
PRIME LOGISTICS INC
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PRIME LOGISTICS SERVICES
PRIME LOGISTICS SERVICES LLC
PRIME LOGISTICS SOLUTIONS LLC
PRIME LOGISTICS SOLUTIONS LLC
PRIME LOGISTICS TRANSPORT LLC
PRIME LOGISTICS TRANSPORTATION
PRIME LOGISTICS TRANSPORTATION LLC
PRIME LOGISTICS TRANSPORTATION LLC
PRIME LOGISTICS TRUCKING LLC
PRIME LOGISTICS USA LLC
PRIME LOGISTICS USA LLC
QC PRIME LOGISTICS LLC
R&R PRIME LOGISTICS LLC
ROAD RUNNER PRIME LOGISTICS INC
RTL PRIME LOGISTICS LLC
S & R PRIME LOGISTICS LLC
SENOJ PRIME LOGISTICS LLC
SN PRIME LOGISTICS INC
SOTHERN PRIME LOGISTICS LLC
SOUTHERN PRIME LOGISTICS LLC
SOUTHERN PRIME LOGISTICS LLC
SPARK PRIME LOGISTICS INC
T PRIME LOGISTICS INC
T3 PRIME LOGISTICS LLC
TEXAS PRIME LOGISTICS LLC
TOTAL PRIME LOGISTICS LLC
TOTAL PRIME LOGISTICS LLC
TRANSPRIME LOGISTICS LLC
TS PRIME LOGISTICS INC
ULTRA1PRIME LOGISTICS LLC

EASTVALE, CA
 ROLLING MEADOWS, IL
 WINTER GARDEN, FL
 KENTWOOD, MI
 ALLENTOWN, PA
 RALEIGH, NC
 BUFFALO, NY
 SYKESVILLE, MD
 FAIRBURN, GA
 FLORENCE, KY
 MOORE, SC
 LA CRESCENTA, CA
 ODESSA, FL
 SAINT-LAZARE, PQ
 MIAMI, FL
 MIAMI, FL
 KENT, WA
 NATIONAL CITY, CA
 DENVER, CO
 KENOSHA, WI
 KANSAS CITY, MO
 CLINTON, IA
 MURFREESBORO, TN
 COLUMBUS, OH
 COLUMBUS, OH
 COVINGTON, GA
 HONEY BROOK, PA
 ASHTON, NE
 MEQUON, WI
 SIGNAL HILL, CA
 DALTON, GA
 OAK CREEK, WI
 WHITE PLAINS, NY
 SAINT PAUL, MN
 HOUSTON, TX
 LOS ANGELES, CA
 LANHAM, MD
 OVERLAND PARK, KS
 LAS VEGAS, NV
 CHARLOTTE, NC
 YORK, SC
 WOODSTOCK, ON
 DECATUR, AL
 TAMPA, FL
 LOCUST GROVE, GA
 LITTLETON, CO
 BRUNSWICK, GA
 SMITHVILLE, MS
 BRUNSWICK, GA
 PLAINFIELD, IL
 CHINO, CA
 FRESNO, TX
 ODESSA, TX
 AFRICAN AMERICAN OR BLACK, IN
 TUCKER, GA
 CHARLOTTE, NC
 ORLANDO, FL
 LAUDERHILL, FL

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SAFER WEB - Select Company

UNIVERSAL PRIME LOGISTICS LLC

US PRIME LOGISTICS LLC

WEST PRIME LOGISTICS

WEST PRIME LOGISTICS LLC

WILKINS PRIME LOGISTICS LLC

WORLD PRIME LOGISTICS

CONROE, TX

DALLAS, TX

MARTINSBURG, WV

COTTONDALE, FL

TALLAHASSEE, FL

FAIRLESS HILLS, PA

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Federal Motor Carrier Safety Administration
1200 New Jersey Avenue SE, Washington, DC 20590 • 1-800-832-5660 • TTY: 1-800-877-8339 • [Field Office Contacts](#)

EXHIBIT 2

**N THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF ILLINOIS EASTERN
DIVISION**

NEW PRIME, INC., D/B/A PRIME, INC.,)
Plaintiff,

v.

PRIME LOGISTICS CORP.,)
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)
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Case No. 1:23-cv-00095

Hon. Judge Jeremy C. Daniel
Mag Judge Keri L Holleb

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PLC-1008	Lease-ARN Freight
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